

106TH CONGRESS
1ST SESSION

S. 34

To amend title 28, United States Code, to clarify the remedial jurisdiction of inferior Federal courts.

IN THE SENATE OF THE UNITED STATES

JANUARY 19, 1999

Mr. THURMOND introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend title 28, United States Code, to clarify the remedial jurisdiction of inferior Federal courts.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Judicial Taxation Pro-
5 hibition Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) a variety of effective and appropriate judi-
9 cial remedies are available for the full redress of
10 legal and constitutional violations under existing law,

1 and that the imposition or increase of taxes by
2 courts is neither necessary nor appropriate for the
3 full and effective exercise of Federal court jurisdic-
4 tion;

5 (2) the imposition or increase of taxes by judi-
6 cial order constitutes an unauthorized and inappro-
7 priate exercise of the judicial power under the Con-
8 stitution of the United States and is incompatible
9 with traditional principles of law and government of
10 the United States and the basic principle of the
11 United States that taxation without representation
12 is tyranny;

13 (3) Federal courts exceed the proper boundaries
14 of their limited jurisdiction and authority under the
15 Constitution of the United States, and impermissibly
16 intrude on the legislative function in a democratic
17 system of government, when they issue orders re-
18 quiring the imposition of new taxes or the increase
19 of existing taxes; and

20 (4) Congress retains the authority under article
21 III, sections 1 and 2 of the Constitution of the
22 United States to limit and regulate the jurisdiction
23 of the inferior Federal courts that Congress has seen
24 fit to establish, and such authority includes the

1 power to limit the remedial authority of inferior
 2 Federal courts.

3 **SEC. 3. AMENDMENT TO TITLE 28.**

4 (a) IN GENERAL.—Chapter 85 of title 28, United
 5 States Code, is amended by inserting after section 1341
 6 the following:

7 **“§ 1341A. Prohibition of judicial imposition or in-**
 8 **crease of taxes**

9 “(a) Notwithstanding any other provision of law, no
 10 inferior court established by Congress shall have jurisdic-
 11 tion to issue any remedy, order, injunction, writ, judg-
 12 ment, or other judicial decree requiring the Federal Gov-
 13 ernment or any State or local government to impose any
 14 new tax or to increase any existing tax or tax rate.

15 “(b) Nothing in this section shall prohibit inferior
 16 Federal courts from ordering duly authorized remedies,
 17 otherwise within the jurisdiction of those courts, that may
 18 require expenditures by a Federal, State, or local govern-
 19 ment in any case in which those expenditures are nec-
 20 essary to effectuate those remedies.

21 “(c) For purposes of this section, the term ‘tax’
 22 includes—

23 “(1) personal income taxes;

24 “(2) real and personal property taxes;

25 “(3) sales and transfer taxes;

1 “(4) estate and gift taxes;
 2 “(5) excise taxes;
 3 “(6) user taxes;
 4 “(7) corporate and business income taxes; and
 5 “(8) licensing fees or taxes.”.

6 (b) TABLE OF SECTIONS.—The table of sections for
 7 chapter 85 of title 28, United States Code, is amended
 8 by inserting after the item relating to section 1341 the
 9 following:

“1341A. Prohibition of judicial imposition or increase of taxes.”.

10 **SEC. 4. APPLICABILITY.**

11 This Act and the amendments made by this Act shall
 12 apply to cases pending or commenced in a Federal court
 13 on or after the date of enactment of this Act.

